

§ 278.8

7 CFR Ch. II (1-1-01 Edition)

(3) Advise the firm and the bonding agent of the firm's right to administrative review of the claim determination;

(4) Advise the firm and the bonding agent that if payment of the current claim is not received directly from the firm, FNS shall obtain full payment through forfeiture of the bond;

(5) Proceed with collection on the bond for the amount forfeited if a request for review is not filed by the firm within the period established in § 279.5, or if such review is unsuccessful; and

(6) Upon the expiration of time permitted for the filing of a request for administrative and/or judicial review, deposit the bond in a Federal Reserve Bank account or in the Treasury Account, General. If FNS requires only a portion of the face value of the bond to satisfy a claim, the entire bond will be negotiated, and the remaining amount returned to the firm.

(c) *Coupons accepted without authorization.* (1) The FNS officer in charge may approve the redemption under § 278.4 of coupons accepted by firms before the receipt of an authorization card from FNS if the following conditions exist:

(i) The coupons were received in accordance with the requirements of this part governing acceptance of coupons except the requirement that the firm be authorized before acceptance;

(ii) The coupons were accepted by the firm in good faith, and without intent to circumvent this part; and

(iii) The firm receives authorization to participate in the program.

(2) Firms seeking approval to redeem coupons accepted without authorization shall present a written application for approval to the local FNS field office. This application shall be accompanied by a written statement signed by the firm of all the facts about the acceptance of the coupons. The statement shall also include a certification that the coupons were accepted in good faith, and without any intent to circumvent this part.

(d) *Burned or mutilated coupons.* FNS may redeem burned or mutilated coupons only to the extent that the Bureau of Engraving and Printing of the United States Treasury Department can determine the value of the coupons. The firm presenting burned or

mutilated coupons for redemption shall submit the coupons to the local FNS field office with a properly filled-out redemption certificate. In the section of the redemption certificate for entering the amount of coupons to be redeemed, an estimate of the value of the burned or mutilated coupons submitted for redemption shall be entered if the exact value of the coupons is unknown. The phrase "Deputy Administrator for Fiscal Management, FNS, USDA," should be entered in the section of the redemption certificate for entering the name and address of the insured financial institution or wholesaler.

(e) *Old series coupons.* FNS may redeem the old series food coupons issued in 50-cent, 2-dollar, and 5-dollar denominations when they are presented for redemption. Firms presenting the coupons for redemption shall submit the coupons to the local FNS field office with a properly completed redemption certificate and a written statement, signed by a representative of the firm, detailing the circumstances of the acceptance of the coupons.

(f) *Denials of claims brought by authorized firms against FNS.* If a claim brought by a firm against FNS under this section is denied in whole or in part, notification of this action shall be sent to the firm by certified mail or personal service. If the firm is aggrieved by this action, it may seek administrative review as provided in § 278.8.

(g) *Lost or stolen coupons.* FNS may not be held liable for claims from retail food stores, meal services, or wholesale food concerns for lost or stolen coupons.

[Amdt. 136, 43 FR 43274, Sept. 22, 1978, as amended by Amdt. 258, 49 FR 28393, July 12, 1984; Amdt. 257, 49 FR 32538, Aug. 15, 1984; Amdt. 262, 49 FR 50598, Dec. 31, 1984]

§ 278.8 Administrative review—retail food stores and wholesale food concerns.

(a) *Requesting review.* A food retailer or wholesale food concern aggrieved by administrative action under §§ 278.1, 278.6 or 278.7 may, within the period stated in § 279.5 of this chapter, file a written request for review of the administrative action with the review officer. However, disqualification actions

taken against firms in accordance with § 278.6(e)(8) shall not be subject to administrative or judicial review. On receipt of the request for review, the questioned administrative action shall be stayed pending disposition of the request for review by the review officer, except in the case of a permanent disqualification as specified in § 278.6(e)(1). A disqualification for failure to pay a civil money penalty shall not be subject to administrative review.

(b) *Addressing the request.* The request for review shall be filed with the Director, Administrative Review Division, U.S. Department of Agriculture, Food and Nutrition Service, Room 304, 3101 Park Center Drive, Alexandria, Virginia 22302.

(c) *Review procedure.* The procedure for food stamp reviews is published in part 279 and is available upon request from the Director, Administrative Review Division.

[Amtd. 236, 49 FR 22058, May 25, 1984, as amended at 64 FR 23174, Apr. 30, 1999]

§ 278.9 Implementation of amendments relating to the participation of retail food stores, wholesale food concerns and insured financial institutions.

(a) *Amendment 224.* Retail food stores shall have signs posted as required by this amendment no later than 30 days after distribution of the signs by FNS.

(b) *Amendment 257.* With the exception of the provisions in § 278.5 requiring redeeming financial institutions to verify that coupons are supported by redemption certificates, the revisions to part 278 shall be effective September 14, 1984. Redeeming financial institutions shall begin verifying coupon deposits as required by § 278.5 in accordance with the schedule determined by the Federal Reserve Board. Insured financial institutions shall adhere to preexisting requirements for handling redemption certificates (at 7 CFR 278.5(a)) until their Federal Reserve District implements the procedures contained in this final rule. FNS shall not be liable for any losses of coupons in transit to Federal Reserve Banks or as a result of a burglary or robbery of an insured financial institution which occur after September 14, 1984.

(c) *Amendment 267.* The federally insured credit unions authorized to redeem food stamps under this amendment may begin accepting food stamps for redemption not later than March 27, 1986.

(d) The program changes of *Amendment 272* at § 278.5(a) (1) and (3) are effective upon publication of the amendment. Financial institutions must implement the provisions no later than April 21, 1986.

(e) *Amendment No. 286.* The provisions for part 278 of *Amendment No. 286* were effective March 11, 1987 for purposes of submitting applications for authorization to accept food stamps. For all other purposes, the effective date was April 1, 1987.

(f) *Amendment No. 280.* The provisions for part 271 and §§ 278.1(r) and 278.6(f) of No. 280 are effective retroactively to April 1, 1987. The provision for § 278.1(o) is effective May 22, 1987.

(g) *Amendment No. 304.* The technical amendment for part 278 of *Amendment No. 304* was effective August 1, 1988.

(h) *Amendment No. 323.* The program changes made to § 278.6 by this amendment are retroactively effective October 1, 1988.

(i) *Amendment No. 334.* The program changes made to § 278.1 and § 278.6 by this amendment are effective February 1, 1992. The program changes made to § 271.2 and § 271.5 by this amendment are retroactively effective to November 28, 1990, as specified in Pub. L. No. 101-624.

(j) *Amendment No. 354.* The program changes made to § 271.2 and § 278.6 by this amendment are effective October 1, 1993.

(k) *Amendment No. 331.* The program changes made to §§ 271.2 and 278.5 by this amendment are effective December 22, 1994.

(l) *Amendment No. 335.* Expanded authority to use and disclose information about firms participating in the FSP under CFR 278.1(r) for currently authorized firms is effective and will be implemented beginning February 25, 1997 but not before 60-days after the date of notices to such firms, notifying them of the changes. The only exception to the above is that such disclosure of information shall not apply to firms that are withdrawn or are disqualified from FSP participation prior